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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,706

03/09/2004

Johanna Fraki

442-010769-US (D01)

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PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

EXAMINER

ARAQUE JR, GERARDO

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/796,706	Applicant(s) FRAKI ET AL.	
	Examiner Gerardo Araque Jr.	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. **Claims 35 – 36, 38 – 42, and 50** are rejected under 35 U.S.C. 102(a) as being anticipated by **Lovegety**

(<http://www6.cnn.com/WORLD/asiapcf/9806/07/fringe/japan.lovegety/> and <http://www.geocities.com/Pentagon/Bunker/5921/lovegety.html>).

3. In regards to **claim 36 and 50**, **Lovegety** discloses a first mobile terminal comprising:

circuitry for trading a digital collectable card associated with a user of the first mobile terminal (**wherein the Lovegety devices are capable to trading data information with other Lovegety devices**);

means for detecting whether a second mobile terminal is available for trading the digital collectable card (**wherein the Lovegety device beeps when they detect another Lovegety device within 15 ft.**); and

a short-range wireless communication transceiver for directly communicating with the second mobile terminal for trading the digital collectable card (**wherein the Lovegety device communicates over 15 ft.**),

wherein the means for detecting whether a second mobile terminal is available for trading the digital collectable card further comprises a means for detecting the availability of a particular digital collectable card **(wherein the Lovegety device has different modes programmed to seek out other Lovegety devices transmitting specific data)**.

4. In regard to **claim 35**, **Lovegety** discloses wherein the means of detecting whether the second mobile terminal has a digital collectable card trading capability **(wherein the Lovegety devices are capable to communicating with one another to determine if the user is interested with the user of the other Lovegety device)**.

5. In regards to **claim 38**, **Lovegety** discloses further comprising a means for transferring confirmation and registration messages to a server administering the digital collectable card via a mobile communications network **(wherein the company that makes the Lovegety devices host an Internet site for Lovegety holders to post messages to make matchmaking easier)**.

6. In regard to **claims 39 – 40**, as best understood by the examiner, **Lovegety** discloses a means of determining whether another Lovegety user is within the vicinity. Inherently included, Lovegety uses short-range wireless communication.

7. In regard to **claim 41**, **Lovegety** discloses comprising a means for determining whether another digital collectable card is available **(wherein the Lovegety is capable to communicating with a plurality of other Lovegety devices in order to find a match)**.

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8. In regard to **claim 42**, **Lovegety** discloses wherein the first and second mobile terminals are operable to exchange messages proposing a meeting to trade the digital collectable card (**wherein the Lovegety devices flash green or red to determine whether a meeting should be established**).

9. **Claims 33 – 34, 37, and 51 – 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lovegety**,

(<http://www6.cnn.com/WORLD/asiapcf/9806/07/fringe/japan.lovegety/> and

<http://www.geocities.com/Pentagon/Bunker/5921/lovegety.html>).

10. In regard to **claims 33 – 34 and 51**, **Lovegety** is discussed above, but fail to explicitly disclose using Bluetooth technology.

However, Newton's Telecom dictionary discloses that Bluetooth is, "A wireless protocol that is used to communicate from one device to another in a small area usually less than 30 feet (see also provided definitions of Bluetooth)." As a result, it is obvious for Lovegety to use Bluetooth technology since it operates within the 30 ft. range. Moreover, because a Bluetooth transceiver is being used then it would be operable to communicate within an operational low power radio range.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention that Lovegety to uses a Bluetooth transceiver as a short-range wireless communication transceiver operable to communicate within an operational low power radio range.

11. In regard to **claims 37 and 52**, Newton Telecom dictionary discloses that a means of determining whether the first and second mobile terminals are in the same cell

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of a mobile communication network is old and well known (see Newton: Cell and CMTS). Moreover, **Lovegety** discloses that the Lovegety devices are capable of communicating to a plurality of Lovegety devices.

12. In regards to **claim 53**, **Lovegety** discloses trading digital information over portable devices within the vicinity of each other. Moreover, although Lovegety does not explicitly disclose the use of a cellular mobile wireless communication network it is old and well known for cellular phones, or even a Blackberry, to carry out the functions described above and further comprising:

a transceiver for cellular mobile wireless communication (**obviously included**);

an input user interface to request digital data from the cellular mobile communication network (**keypad on a cellular phone or a Blackberry**);

a memory to store digital data (**obviously included**);

an output user interface to display the received digital data (**display screen on a cellular phone**); and

a processor configured to transmit user identity information to a digital data server (**phone number**) over the cellular mobile communication network and request particular data from the digital data server (**such as a Blackberry**), wherein the digital data is adapted to be associated with the user based on the user identity information transmitted over the cellular mobile communication network from the first mobile terminal (**obviously included**).

13. In regards to **claim 54**, it is old and well known to use a password in order to protect a user's identity information.

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14. **Claims 45 – 49** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lovegety** (<http://www6.cnn.com/WORLD/asiapcf/9806/07/fringe/japan.lovegety/> and <http://www.geocities.com/Pentagon/Bunker/5921/lovegety.html>) in view of **Sehr (US Patent 6,325,295 B1)**

15. In regards to **claim 45**, **Lovegety** discloses a method comprising:
trading a digital information associated with a user of a first mobile terminal, including
(wherein the Lovegety devices are capable to trading data information with other Lovegety devices):

detecting whether a second mobile terminal is available for trading a digital information, including detecting the availability of a particular digital information
(wherein the Lovegety device has different modes programmed to seek out other Lovegety devices transmitting specific data); and

communicating within an operational range of short range wireless communications directly between the first and second terminals for trading the particular digital data **(wherein the Lovegety device communicates over 15 ft.).**

detecting whether a first mobile terminal is in the vicinity of a second mobile terminal **(wherein the Lovegety devices beep and flash when another Lovegety device is within the vicinity).**

However, **Lovegety** fails to disclose trading digital collectable cards.

Sehr discloses a system and method of trading digital collectable cards over portable terminals with other users **(Col. 2 Lines 41 – 45; Col. 3 Lines 12 – 22, 45 - 48)**. Moreover, **Sehr** discloses that certain data elements are certified, such as

background information or statistics data, pertaining to a subtopic stored in collector's cards they want to trade with another collector (**Col 3 – 4 Lines 66 – 10; Col. 11 Lines 51 – 54; Col. 15 Lines 27 – 28; Col. 18 Lines 61 – 65**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Lovegety's** teaching of trading digital information over portable devices within the vicinity of each other with **Sehr's** teaching of trading digital collectable cards.

16. In regard to **claim 46**, Newton Telecom dictionary discloses that a means of determining whether the first and second mobile terminals are in the same cell of a mobile communication network is old and well known (see Newton: Cell and CMTS).

17. In regard to **claim 47**, as best understood by the examiner, **Lovegety** discloses a means of determining whether another Lovegety user is within the vicinity. Inherently included, Lovegety uses short-range wireless communication.

18. In regards to **claim 48**, **Lovegety** discloses further comprising a means for transferring confirmation and registration messages to a server administering the digital collectable card via a mobile communications network (**wherein the company that makes the Lovegety devices host an Internet site for Lovegety holders to post messages to make matchmaking easier**). Moreover, **Sehr** also discloses the use of a Service Provider, which would obviously include the user to transfer confirmation and registration messages to a server administering the digital collectable card (**Col. 3 – 4 Lines 66 – 10**).

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19. In regard to **claim 49, Lovegety** discloses wherein the first and second mobile terminals are operable to exchange messages proposing a meeting to trade the digital collectable card (**wherein the Lovegety devices flash green or red to determine whether a meeting should be established**). Moreover, **Sehr** discloses that the collectors can also trade the cards at their leisure (**Col. 18 Lines 61 – 65**).

Response to Arguments

Applicant's arguments with respect to claim 5/4/07 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure can be found in PTO-892 Notice of References Cited.

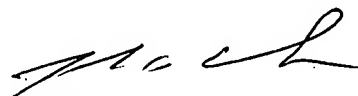
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GA
5/17/07



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